

FEBRUARY 23, 2016

**CITY OF GUNNISON COUNCIL
REGULAR SESSION MEETING MINUTES**

7:00 P.M.

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Hagan, with Councilors Ferguson, Drexel, Morrison and Schwartz present along with City Attorney Fogo, Interim City Manager Achen, City Clerk Davidson, Acting City Manager Westbay, Police Chief Robinson, Finance Director Cowan, Municipal Judge McDonald, Court Clerk McLeod, WSCU Liaison Alejandre, several citizens and the press. A Council quorum was present.

FEBRUARY 23, 2016

PUBLIC HEARING

7:00 P.M.

Receive Input on Retail Marijuana Store License Application from White Porch LLC dba Hashish Hut, 827 N. Main Street in Gunnison, CO.

Mayor Hagan called the Public Hearing to order and stated it is 7:00 P.M., on Tuesday, February 23, 2016, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado. Present at the Public Hearing are myself, Mayor Richard Hagan, City Councilors Stu Ferguson, Robert Drexel, Leia Morrison and Matt Schwartz, Interim City Manager Mark Achen, City Attorney Kathy Fogo, City Clerk Gail Davidson, Police Chief Keith Robinson, and Community Development Director Steve Westbay. Mayor Hagan stated the purpose of this Public Hearing is to receive input on the merits of a Retail Marijuana Store License Application from White Porch LLC dba Hashish Hut, 827 N Main Street in Gunnison, Colorado, and then called for proof of publication. City Clerk Davidson stated a copy of the Notice of Public Hearing was included in their packets and the Affidavit of Publication is included in the official Affidavit of Publication File in the City records.

Mayor Hagan asked the Applicant to stand and identify themselves. Applicant Kimber Arsenault introduced herself to Council.

Mayor Hagan called for City Staff Comments and Recommendations. City Clerk Davidson stated the City Council of the City of Gunnison, approved and adopted Marijuana Establishment rules and regulations and these are found in the Gunnison Municipal Code and the City of Gunnison *Land Development Code*. To operate a Marijuana Establishment in the City, a license from both the State of Colorado and the City of Gunnison must be obtained. The City application and licensing regulations are outlined in GMC Section 8.40. White Porch LLC dba Hashish Hut, located at PO Box 1085 Paonia, Colorado 81428, completed and submitted the required State Marijuana Enforcement Division and City of Gunnison Marijuana Establishment License Application forms for a retail marijuana store to be located 827 N. Main Street in Gunnison. Principal in the LLC with 100% ownership is Kimber Arsenault. The building is co-owned by Dana Lilliard, PO Box 1085, Paonia, Colorado. City Clerk Davidson has received the required Property Ownership Consent form from Ms. Lilliard for the building to be considered for a retail marijuana store location.

The proposed location is within the allowed zoning district for a retail marijuana store establishment within the City. The State Marijuana Division submitted their completed forms back to the City within the required seven days of their submission. White Porch LLC paid the City-required license and application fees. Once the State Application forms were received, they were forwarded onto the Police, Finance, City Clerk, Public Works, and Community Development Departments, as well as to the City Attorney for review. A copy of the City of Gunnison Departmental Approvals form is included in the Public Hearing information packet. The results of that review include:

- Clerk's Department: the required complete application was filed including the property owner consent form. All City-required fees have been paid.
- The Finance Department has issued a City Sales Tax License and has provided sales tax remittance information to the applicant.
- The Police Department has completed local background checks and investigations on the applicant - the LLC Principal Kimber Arsenault.
- The Public Works Department has not identified any compliance issues with the City Utility Codes.
- The Community Development Department has received their internal Marijuana Site Development Application and has reviewed the application for compliance with the provisions of the City of Gunnison *Land Development Code* regarding allowed location, signage, control of marijuana-related odors, hours of operation, and City-adopted building Standards. The CD Department has issued their retail marijuana establishment permit with the following conditions:

- (1) The Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
- (2) A mechanical source capture and exhaust system shall be installed and subject to inspection and approval by the Building Official.
- (3) A minimum of 3 exterior parking spaces with one handicap accessible space shall be dedicated to this retail Marijuana establishment operation.
- (4) Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

Per City Code, after the Conditional State Retail Marijuana Store License was received from the Colorado Marijuana Enforcement Division, City Council set the Public Hearing for 7:00 P.M., Tuesday, February 23, 2016, the premises was posted with the Public Hearing notice for the minimum of 10 days, and the public hearing notice was published as required in the Gunnison Country Times Newspaper. Based on the review and investigations of the license application, City Staff recommends approval of the White Porch LLC dba Hashish Hut, 827 N. Main Street, Gunnison, Colorado, 81230, Retail Marijuana Store License Application with the four stated conditions.

Mayor Hagan called for the Determination of the Neighborhood within the City Limits. City Clerk Davidson stated the neighborhood is defined as the area within the incorporated City Limits of Gunnison, Colorado.

Mayor Hagan called for the Applicant's Testimony. Kimber Arsenault addressed Council. Ms. Arsenault stated she is a graduate of Western State College 30 years ago and is looking forward to being back in Gunnison and running a business. She will run a good business for the community. Ms. Arsenault passed out a petition to Council showing the wants and needs of the adult citizens of the community in wanting the business to be approved. Council thanked Ms. Arsenault.

Mayor Hagan called for public comment in favor of the application and asked that anyone wishing to give input for the record to please step up to the microphone, state their name, and sign the sign-in sheet. He asked comments be kept to addressing the Retail Marijuana Store license application. There were no comments in favor of the application.

Mayor Hagan called for public comment in opposition of the application and asked that anyone wishing to give input for the record to please step up to the microphone, state their name, and sign the sign-in sheet. He asked comments be kept to addressing the Retail Marijuana Store license application. There were no comments in opposition of the application.

Mayor Hagan asked if any letters, emails, or other comments were received from the public to be entered into the record. Clerk Davidson stated that no additional comments were received.

Mayor Hagan called for any further comments on the application. Hearing none, the Mayor closed the Public Hearing at 7:12 P.M.

Minutes of February 9, 2016, Regular Session Meeting.

Councilor Ferguson moved and Councilor Morrison seconded the motion to approve the Regular Session meeting minutes of February 9, 2016, as submitted.

Roll call vote, yes: Ferguson, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

Minutes of February 16, 2016, Special Session Meeting.

Councilor Drexel moved and Councilor Schwartz seconded the motion to approve the Special Session meeting minutes of February 16, 2016, as submitted.

Roll call vote, yes: Drexel, Morrison, Schwartz, Ferguson. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Hagan. He was absent from the meeting.

Pre-Scheduled Citizens:

2015 Municipal Court Report: Judge James McDonald. Judge McDonald addressed Council and reported on the following: 2015 was a good year with nothing major happening;

Court staff did a great job with Missy, Tara and Gail keeping the day-to-day operations running smoothly; the numbers are down a bit partially because there were fewer parking citations due to not having a parking enforcement officer for part of the year; citizens are glad about the option for a reduction from \$30 to \$20 for a parking violation if they pay it within 30 days; and case flow is better in Court due to the presence of City Prosecuting Attorney Kathy Fogo. Councilor Ferguson asked the Judge to explain about a Court of Record. Judge McDonald explained that in order to be a Court of Record the Judge must be a licensed attorney in the State of Colorado and a recording must be made of the court proceedings. The recording allows for a case to be appealed to the District Court if the defendant wishes to do so. Councilor Ferguson stated it allows for the Gunnison Municipal Court to provide higher level of service and professionalism. Council thanked Judge McDonald for his report.

Unfinished Business: None.

New Business:

Action on Hashish Hut Retail Marijuana Store License Application.

Councilor Schwartz moved and Councilor Morrison seconded the motion that the Retail Marijuana Store License for White Porch, LLC dba Hashish Hut, 827 N. Main Street, Gunnison, Colorado, 81230, be approved based on the following findings and with the following conditions:

FINDINGS:

- (1) There has not been a denial of an application at the same location, on the grounds that the reasonable requirements of the neighborhood were satisfied by the existing establishment.
- (2) It appears from the evidence submitted with the application that the applicant is entitled to possession of the premises where the license is proposed to be exercised.
- (3) Selling Retail Marijuana and Allowed Retail Marijuana-Associated Products, as proposed in the application, is not in violation of the zoning, fire, building, technical, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.
- (4) The building where the application proposes to sell Retail Marijuana and allowed marijuana-associated products does not appear to be within 1000 feet of any public, charter, or parochial school, daycare school, center or home, the principal campus of any college, university or seminary, or mental health facilities.
- (5) Within the City Limits where Retail Marijuana and Marijuana-associated products are proposed to be sold, there are the following existing other licensed marijuana establishment:
 - 7 – Retail Marijuana Stores
- (6) Based on the petitions of adult inhabitants of the City of Gunnison, the license applied for will meet the desires of the adult inhabitants of the City of Gunnison.
- (7) All fees necessary for the application have been paid.

CONDITIONS:

- (1) The Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
- (2) A mechanical source capture and exhaust system shall be installed and subject to inspection and approval by the Building Official.
- (3) A minimum of 3 exterior parking spaces with one handicap accessible space shall be dedicated to this retail Marijuana establishment operation.
- (4) Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

Roll call vote, yes: Hagan, Morrison, Schwartz, Ferguson. Motion carried.

Roll call vote, no: Drexel. Councilor Drexel stated he had citizens concerned with the number of retail stores already licensed, so he is voting “no” due to those concerns.

Action on Contract for Service with WSCU Center for Environment and Sustainability in the Amount of \$500.00 for Sage Grouse Summit. This item was discussed at last week’s Work Session meeting.

Councilor Ferguson moved and Councilor Drexel seconded the motion to approve the Memorandum of Understanding with WSCU Center for Environment and Sustainability in the amount of \$500 for the Sage Grouse Summit and to authorize the Mayor to sign the agreement.

Roll call vote, yes: Morrison, Schwartz, Ferguson, Drexel, Hagan. So carried.

Roll call vote, no: None.

Action on Letter of Support for Gunnison Arts Center Grant Application.

Councilor Schwartz moved and Councilor Morrison seconded the motion to approve the Letter of Support for the Gunnison Arts Center's Grant Application and to authorize the Mayor to sign the letter.

Roll call vote, yes: Schwartz, Ferguson, Drexel, Hagan, Morrison. So carried.

Roll call vote, no: None.

Action on Selection of New City Manager Executive Search Firm. Interviews of two recruiting firms took place at a Council Work Session meeting earlier in the day. Council discussion ensued.

Councilor Morrison moved and Councilor Ferguson seconded the motion to select Strategic Government Resources to conduct the new City Manager recruitment services and to direct staff to proceed with drafting a contract for those services as outlined in the firm's proposal.

Roll call vote, yes: Ferguson, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

Resolutions and Ordinances:

Resolution No. 2, Series 2016; Re: Canceling March 22, 2016, Regular Session Council Meeting. Councilor Schwartz introduced Resolution No. 2, Series 2016, and it was read by title by the City Attorney.

Councilor Schwartz moved and Councilor Ferguson seconded the motion that Resolution No.2 Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, CANCELING THE REGULAR SESSION MEETING SCHEDULED FOR MARCH 22, 2016**, be introduced, read, passed and adopted this 23rd day of February, 2016.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Ferguson. So carried.

Roll call vote, no: None.

Reports:

City Attorney Kathleen Fogo: No report.

Interim City Manager Mark Achen: Interim City Manager Achen reported on the following: there was a snow melt event at the community center when a large amount of snow fell off the roof onto the patio, past the barricades and damaged a bicycle trailer; Director Ampietro has suggested adding some snow catchers to the roof next year and the alley to the west of the facility may need to be closed for a short time due to snow coming off the roof; there are some insurance liability issues with the Rail Jam Event scheduled for March 11th and City staff is working with the organizer on those issues. Council made some suggestions regarding shared insurance costs. Council concurred we need to reach out to Western students and get them involved in community events like this one; and Finance Director Cowan suggested establishing an insurance deductible fund in the budget that each department would pay into to cover liability issues.

Acting City Manager Community Development Director Steve Westbay: Semi-Annual Departmental Report and Safe Streets Update. Director Westbay briefly reviewed the semi-annual report that was included in Council packets. Items discussed included: the Department held the annual Household Hazardous Water Collection Day; Department staff is monitoring the ice jam problem along with the County; the Lazy- K Master Plan process with CU Denver planning students is underway; the City has provided input on the County's Airport Master Plan update; marijuana license application review has taken place; he has been involved in the action plan development for the OVPP; an application for a major change to the Gunnison Rising PUD has been received and is under review; he and Eric Jansen attended the annual Floodplain Managers meeting in September to maintain their certifications; Dennis conducted the annual Fire Prevention Safety week at the schools and participant levels on the Fire Department are increasing.

Director Westbay then gave an update on the Safe Street project. The 30% design drawings are essentially completed. Phase 3 will include AutoCAD drawings of the proposed project. The redefined cost is \$100,000. If the City wants to go forward with the design concept staff is recommending transferring \$41,760 from the Comprehensive Plan line item to the Safe Streets Plan Project. Some of the Comprehensive Plan narrative can be written in-house at the staff level. The transfer of the funds would be included in an additional appropriations ordinance in the near future. The 30% design is the basis for the project costs to be established and allows for the project plan to be used for grant funding potential. Also, CDOT permitting can be done at the 30% design phase. The first step is to meet with CDOT in Grand Junction. Council consensus was this project is a top priority and they want to proceed. Ideas for communicating progress on the project with the public were discussed. A monthly newsletter on the project and inclusion on the website and Facebook were discussed.

Mayor Hagan asked Director Westbay about the Gunnison Rising PUD Major Change. Director Westbay stated the change is to increase the allowed commercial footage in the commercial-zoned district. The Major Change is working its way through the Planning Commission and will come before Council in a few weeks. Director Westbay stated he attended the OVPP Housing Committee meeting and one of the objectives is to develop permanent funding sources for the Gunnison Valley Housing Authority. The final sub-committee report will be completed soon.

City Clerk Gail Davidson: had no further report.

Western State Colorado University Student Liaison Alex Alejandre. Alex informed Council the following: not much is going on at Western currently. There will be a US Job workshop held, Carnival, the Hispanic MardiGras, is being planned and tickers are on sale. The SGA is reviewing one bill and Western is hosting the Wrestling Regionals this coming weekend. There will be a lot of people in town for that event.

Police Chief Robinson: gave Council an update on the recent GPD officer-involved shooting incident. The PD is fairly limited on what can be released in press releases. Once a suspect is in custody, the prosecuting DA has limits on what can be released so as not to prejudice a potential court case. There are unanticipated PD expenses involved in the incident. Extra Officers had to be called in to cover patrol while the officers involved in the incident were out of the City. There is a continued investigations of the suspect and the Salida Hospital required security coverage of the suspect by the GPD. Therefore, there were expenses for the officers in Salida while that coverage took place. There will be an out-of-town review of the PD and there may be costs attached to that process. A critical incident debrief and potential psychological evaluation may be conducted prior to officers returning to work and the GPD patrol car was damaged and may need repair after it is released by the DA. The DA also has the involved officer's uniform and equipment in evidence and some of that equipment may need to be replaced awaiting release by the DA. Lastly, the Police Chief reported there was an incident on Monarch today involving a hostage. Chaffee County resolved the issue. The City has posted our traffic control board signs reminding traffic to slow down since we have increased truck and vehicle traffic through town due to the I-70 rockfall closure.

Non-Scheduled Citizens: Council welcomed the three Boy Scouts in attendance at the meeting. The Scouts indicated they were working on a local government merit badge and are attending the meeting to learn about community government.

City Council Discussion, Meeting Reports, Items for Work Session:

Councilor Schwartz: reported he had no scheduled meetings last week but attended the County Planning Commission meeting regarding a 3-Mile application that will be forthcoming to the City. He also attended the Gunnison Trails Winter Blast fundraiser. It was well attended.

Councilor Morrison: reported she also attended the Winter Blast event. The silent auction was a big success. The OVPP Housing Sub-Committee discussed affordable housing. She attended the Chamber Board meeting and they are narrowing the search for a new Executive Director. The new Chamber website is up and she then passed out the newly printed Visitor's Guide. The Gunnison Arts Center's *SonofaGunn* play includes City Council in the play this year. She has had some questions regarding temporary banners around town. Director Westbay asked Councilor Morrison to get with him regarding those questions and he will look into any problems.

Mayor Hagan: reported he attended the Gunnison Housing Authority meeting 2 weeks ago. There are plans for a new 60 unit, deed restricted, housing project. This is in addition to the Anthracite Place Units. Anthracite Place has 25 completed applications currently for the 30 spaces. July 17th is the target for the certificate of occupancy for the project. Mayor Hagan also attended the UGRWCD meeting last night. They discussed the ice jam that is now located by the Esty Ranch. The District would like to start the inventory of water use in the valley but there has been considerable push back in the “Ag” community. The District wants to start with Ohio Creek and then Tomichi Creek. The inventory is an outgrowth of the State Water Plan.

Councilor Drexel: reported he attended the Gunnison Valley Housing Foundation meeting. They too discussed the Anthracite Place housing project. The winners of the Habitat for Humanity Design Challenge will be announced in the newspapers soon. There was an issue with the Lost Canyon Cabin owned by the Foundation. They are currently getting insurance on the cabin so it can be rented. Murtaza, the Vista volunteer is looking for a full-time position. The investment policy for the Housing Foundation is being rewritten.

Councilor Ferguson: informed Council he was unable to attend his one scheduled meeting with the OVPP Housing Sub-Committee.

Adjournment: Mayor Hagan called for any further discussion from Council, Staff or the public, and hearing none, adjourned the Regular Session meeting at 8:36 P.M.

Mayor

City Clerk